



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

June 8, 1992

Ms. Priscilla A. Lozano  
The University of Texas System  
Office of General Counsel  
201 West Seventh Street  
Austin, Texas 78701-2981

OR92-303

Dear Ms. Lozano:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), article 6252-17a, V.T.C.S. Your request was assigned ID# 16176.

You have received a request for information relating to the University of Texas women's track team. Specifically, the requestor seeks "[a]ll correspondence between the [athletic] department and the NCAA from September 1, 1991 until present regarding the Texas women's track team." You advise us that you have made most of the requested information available to the requestor. You have submitted to us for review, however, two documents which you claim sections 3(a)(1) and 3(a)(14) of the act except from required public disclosure.

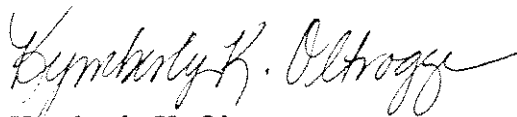
Section 3(a)(1) excepts from required public disclosure "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." Information may be withheld from required public disclosure under common-law privacy if it meets the criteria that the Texas Supreme Court articulated for section 3(a)(1) of the act. *See Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Under *Industrial Foundation*, information may be withheld on common-law privacy grounds only if it is highly intimate or embarrassing and is of no legitimate concern to the public. The test for constitutional privacy involves a balancing of the individual's privacy interests against the public's need to know information of public concern. *Id.* The constitutional right of privacy protects information relating to marriage, procreation, contraception, family relationships, and child rearing and education. *See Open Records Decision No. 447* (1986) at 4. Common-law or constitutional privacy generally excepts information about a person's illnesses, operations, physical

handicaps, or prescription medications, and therefore section 3(a)(1) of the Open Records Act excepts such information. Open Records Decision No. 455 (1987).

We have examined the documents submitted to us for review. We conclude that the information contained in these documents is intimate and embarrassing. We also believe that the public has no legitimate interest in this information and that common-law privacy interests therefore protect it. We conclude that the two documents in their entirety may be withheld from required public disclosure under section 3(a)(1) of the Open Records Act. As we resolve this matter under section 3(a)(1), we need not address the applicability of section 3(a)(14) at this time.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-303.

Yours very truly,



Kymberly K. Oltrogge  
Assistant Attorney General  
Opinion Committee

KKO/GCK/lmm

Enclosures: Submitted documents

Ref.: ID# 16176

cc: Ms. Suzanne Halliburton  
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